



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52-025 and 52-026; NRC-2008-0252]

Vogtle Electric Generating Station, Units 3 and 4;

Southern Nuclear Operating Company;

Reclassification of Tier 2* Information on Fire Area Figures

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption and combined license amendment; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is granting an exemption from certain Tier 2* information in the generic design control document (DCD) and is issuing License Amendment No. 44 to Combined Licenses (COLs) NPF-91 and NPF-92. The COLs were issued to Southern Nuclear Operating Company, Inc. (SNC); Georgia Power Company; Oglethorpe Power Corporation; MEAG Power SPVM, LLC; MEAG Power SPVJ, LLC; MEAG Power SPVP, LLC; and the City of Dalton, Georgia (together “the licensee”) for construction and operation of the Vogtle Electric Generating Plant (VEGP) Units 3 and 4, located in Burke County, Georgia.

The granting of the exemption allows the changes to Tier 2* information requested in the amendment. Because the acceptability of the exemption was determined in part by the acceptability of the amendment, the exemption and amendment are being issued concurrently.

DATES: [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Please refer to Docket ID **NRC-2008-0252** when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2008-0252**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "[Begin Web-based ADAMS Search](#)." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document. The request for the amendment and exemption was submitted by letter dated March 6, 2015 (ADAMS Accession No. ML15065A362).

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Chandu Patel, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-3025; e-mail: Chandu.Patel@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is granting an exemption from Section VIII.B.6.b, Item (4), “Processes for Changes and Departures,” of Appendix D, “Design Certification Rule for the AP1000,” to part 52 of title 10 of the *Code of Federal Regulations* (10 CFR), and is issuing License Amendment No. 44 to COLs NPF-91 and NPF-92 to the licensee. The exemption is required by paragraph VIII.B.6.b of Section VIII, “Processes for Changes and Departures,” Appendix D to 10 CFR part 52 to allow the licensee to change the designation of Tier 2* information. Specifically, with the requested amendment, the licensee sought to redesignate the Fire Area Figures, designated as Tier 2* in Appendix D, as Tier 2. This requires an exemption, rather than the departure that would be required for changes to the figures that preserve the Tier 2* designation, because it has been established that departures do not alter the change control process applicable to specific sections of a design certification rule.

Part of the justification for granting the exemption was provided by the review of the amendment. Because the exemption is necessary in order to issue the requested license amendment, the NRC granted the exemption and issued the amendment concurrently, rather than in sequence. This included issuing a combined safety evaluation containing the NRC staff’s review of both the exemption request and the license amendment. The exemption met all applicable regulatory criteria set forth in 10 CFR 50.12, 10 CFR 52.7, 10 CFR 52.63(b)(1) and Appendix D to 10 CFR part 52. The license amendment was found to be acceptable as well. The combined safety evaluation is available in ADAMS under Accession No. ML15191A194.

Identical exemption documents (except as needed to reflect the unique unit numbers and license numbers) were issued to the licensee for VEGP Units 3 and 4 (COLs NPF-91 and NPF-92). The exemption documents for VEGP Units 3 and 4 can be found in ADAMS under

Accession Nos. ML15191A185 and ML15191A190, respectively. The exemption is reproduced (with the exception of abbreviated titles and additional citations) in Section II of this document. The amendment documents for COLs NPF-91 and NPF-92 are available in ADAMS under Accession Nos. ML15191A158 and ML15191A176, respectively. A summary of the amendment documents is provided in Section III of this document.

II. Exemption

Reproduced below is the exemption document issued to Vogtle Units 3 and 4 makes reference to the combined safety evaluation that provides the reasoning for the findings made by the NRC (and listed under Item 1) in order to grant the exemption:

1. In a letter dated March 6, 2015, Southern Nuclear Operating Company (licensee) requested from the Commission an exemption from the provisions of 10 CFR part 52, Appendix D, Section VIII.B.6.b, Item (4), "Design Certification Rule for the AP1000 Design, Processes for Changes and Departures," to allow a departure from the certified information as part of license amendment request (LAR) 15-007, "Reclassification of Tier 2* Information on Fire Area Figures."

For the reasons set forth in Section 3.1, "Evaluation of Exemption," of the NRC staff's Safety Evaluation that supports this license amendment, which can be found in ADAMS under Accession No. ML15191A194, the Commission finds that:

- A. the exemption is authorized by law;
- B. the exemption presents no undue risk to public health and safety;
- C. the exemption is consistent with the common defense and security;
- D. special circumstances are present in that the application of the rule in this circumstance is not necessary to serve the underlying purpose of the rule;

E. the special circumstances outweigh any decrease in safety that may result from the reduction in standardization caused by the exemption; and

F. the exemption will not result in a significant decrease in the level of safety otherwise provided by the design.

2. Accordingly, the licensee is granted an exemption from the certified DCD Tier 2* information, as described in the licensee's request dated March 6, 2015. This exemption is related to, and necessary for, the granting of License Amendment No. 44, which is being issued concurrently with this exemption.

3. As explained in Section 5, "Environmental Consideration," of the NRC staff's Safety Evaluation that supports this license amendment (ADAMS Accession No. ML15191A194), this exemption meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9). Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment needs to be prepared in connection with the issuance of the exemption.

4. This exemption is effective as of the date of its issuance.

III. License Amendment Request

By letter dated March 6, 2015, the licensee requested that the NRC amend the COLs for VEGP, Units 3 and 4, COLs NPF-91 and NPF-92. The proposed amendment is described in Section I of this *Federal Register* notice.

The Commission has determined for these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the *Federal Register* on April 14, 2015 (80 FR 20020).

The Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments.

IV. Conclusion

Using the reasons set forth in the combined safety evaluation, the staff granted the exemption and issued the amendment that the licensee requested on February 1, 2016. The exemption and amendment were issued to the licensee as part of a combined package (ADAMS Accession No. ML15191A128).

Dated at Rockville, Maryland, this 13th day of May 2016.

For the Nuclear Regulatory Commission.

John McKirgan, Acting Chief,
Licensing Branch 4,
Division of New Reactor Licensing,
Office of New Reactors.

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